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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

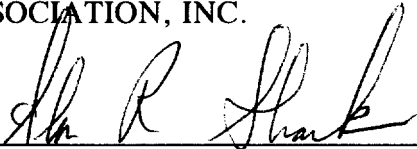
In the Matter of)
)
Promoting Efficient Use of Spectrum) WT Docket No. 00-230
Through Elimination of Barriers to the)
Development of Secondary Markets)
)
To: The Commission

COMMENTS OF THE
AMERICAN MOBILE TELECOMMUNICATIONS ASSOCIATION, INC.

Respectfully submitted,

AMERICAN MOBILE TELECOMMUNICATIONS
ASSOCIATION, INC.

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Supra rec'd 01/11
BODE

February 9, 2001

The American Mobile Telecommunications Association, Inc. (“AMTA” or “Association”), in accordance with Section 1.415 of the Federal Communications Commission (“FCC” or “Commission”) Rules and Regulations, respectfully submits its Comments in the above-entitled proceeding.¹ AMTA is pleased to support the amendment of the Commission’s rules to promote the development of secondary markets. The proposals made by the Commission will facilitate the efficient use of spectrum and provide licensees with additional flexibility to tailor their business strategies.

I. INTRODUCTION

1. AMTA is a nationwide, non-profit trade association dedicated to the interests of the specialized wireless communications industry. The Association’s members include trunked and conventional 800 MHz and 900 MHz Specialized Mobile Radio (“SMR”) service operators, licensees of wide-area SMR systems, and commercial licensees in the 220 MHz and the 450-512 MHz bands. These members provide commercial wireless services to millions of end user subscribers throughout the nation.

2. AMTA has consistently supported Commission efforts to promote the more efficient use of the limited spectrum resources practicably useable for the transmission of wireless communications.² Therefore, the Association strongly supports the removal of unnecessary

¹ 47 C.F.R. § 1.415; *Notice of Proposed Rule Making*, WT Docket No. 00-230, FCC 00-402 (rel. Nov. 27, 2000) (“Notice” or “NPR”).

² AMTA’s members were pioneers in the development and implementation of more costly, but technically more efficient, trunked land mobile technology a full two decades ago. The deployment of multi-frequency trunked commercial systems, first in the 800 MHz and then the 900 MHz bands, has been an unalloyed success story for the Commission and for the customers served on those systems. Similar efforts are underway to make highly efficient, narrowband commercial systems at 220 MHz broadly available throughout the country. Even more recently, the Association’s members have begun to invest in both centralized and

regulatory barriers and the adoption of rules to foster the development of secondary markets, as both actions will serve the public interest by promoting greater spectrum efficiency.

II. DISCUSSION

3. The Commission's spectrum leasing concept would allow licensees to subdivide and apportion their spectrum and to lease their rights to use it to various third party users in any geographic or service area, in any quantity of frequencies, and for any period of time during the term of their licenses.³ AMTA believes that such flexibility could encourage efficiency by providing licensees with a way to divest themselves of spectrum that may be more efficiently and profitably used by another entity or, conversely, to acquire additional increments of spectrum that their technology and customers may require.

4. As noted by the Commission, this approach is consistent with its rules for disaggregation and partitioning.⁴ However, to the best of AMTA's knowledge, neither disaggregation nor partitioning has been used significantly to provide new service to an unserved area. More typically, it simply permits operators in neighboring geographic areas to better reconcile their market areas. AMTA hopes that the Commission's spectrum leasing proposal, combined with its determination that Licensees will maintain ultimate control of the spectrum and

decentralized trunked systems in the bands below 512 MHz in response to the Commission's "refarming" initiative *Second Report and Order*, PR Docket No. 92-235, 12 FCC Rcd. 14307 (1997).

³ NPR at ¶ 20.

⁴ *Id.* at ¶¶ 19-21.

that eligibility requirements will be liberalized will make the instant proposal more useful than partitioning and disaggregation have proven to date.⁵

5. The implementation of the proposals contained in this item *may* provide the opportunity for some operators to obtain spectrum in areas they are unable to at present. However, as the FCC has already acknowledged, areas with excess capacity are typically rural.⁶ While niche providers might lease spectrum to serve such markets, this initiative cannot be expected to address the urgent spectrum shortages in major urban areas in any meaningful fashion. For this reason, AMTA has supported the Land Mobile Communications Council's ("LMCC") efforts to have additional spectrum allocated to Private Mobile Radio Services⁷ and has urged the FCC to create greater efficiencies in the 450 MHz band.⁸

6. The band manager is an appropriate model for spectrum leasing. While the concept is untested, it holds promise. It is a simple way for the marketplace to achieve the intended result. AMTA agrees that there is no need to create a specific "class" of licensees as band managers.

⁵ Doing away with eligibility and use restrictions for the spectrum and allowing licensees to introduce non-interfering uses into their licensed bands must have as a companion the availability of equipment for the service to be provided. Over time, software defined radios might make it more feasible for different technologies and services to coexist on the same spectrum.

⁶ NPR at ¶ 2.

⁷ LMCC, Petition for Rule Making, RM-9267 (filed June 10, 1999); *see Notice of Proposed Rule making*, ET Docket No. 00-221 FCC 00-395, ___ 12 FCC Rcd ___ (rel. Nov. 20, 2000).

⁸ AMTA Petition for Rulemaking (RM- 9332)(filed June 19, 1998) and AMTA Petition for Rulemaking (RM-9705)(filed July 30, 1999). *See Report and Order and Further Notice of Proposed Rulemaking*, WT Docket No. 99-87, ___ FCC Rcd ___, 2000 FCC LEXIS 6132 (Nov. 20, 2000)(BBA Proceeding).

Rather, all wireless radio service licensees subject to the new rules should have the option to use some or all of their licensed spectrum in the same manner as a band manager.

7. AMTA supports the Commission's conclusion that the licensee should retain ultimate responsibility to the Commission for compliance with all of the obligation of the Communications Act and FCC rules including all technical and interference rules applicable to the license. Moreover, unless and until problems arise, the Commission should rely on the contractual relationship of the parties to determine how this requirement works in practice.⁹

8. Finally, AMTA agrees that the *Intermountain Microwave* criteria no longer provide the appropriate framework for a transfer of control analysis under Section 310(d) of the Act. The approach is antiquated and does not apply to the current realities of network operations and optimal spectrum usage.

III. CONCLUSION

9. For the reasons detailed herein, the Association urges the Commission to proceed expeditiously to adopt rules comments with the instant Comments.

⁹ The FCC should only step in and regulate should it so happen that it cannot be resolved by the marketplace.

CERTIFICATE OF SERVICE

I, Linda J. Evans, a secretary in the law office of Lukas, Nace, Gutierrez & Sachs, hereby certify that I have, on this February 9, 2001 caused to be mailed, first-class, postage prepaid a copy of the foregoing Comments to the following:

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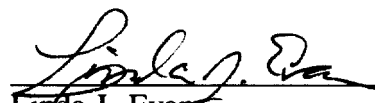
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